



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,335	12/21/2001	Jill Stamm	39672.0200	2536

20322 7590 04/21/2005

SNELL & WILMER  
ONE ARIZONA CENTER  
400 EAST VAN BUREN  
PHOENIX, AZ 850040001

EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
3714	

3714

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

6

<b>Office Action Summary</b>	<b>Application No.</b> 10/028,335	<b>Applicant(s)</b> STAMM ET AL.	
	<b>Examiner</b> Dmitry Suhol	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 10 February 2005.
- 2a)  This action is **FINAL**.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1,3-6,10,12,13,16 and 23-28 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1,3-6,10,12,13,16 and 23-28 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some \*    c)  None of:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

The affidavits under 37 CFR 1.132 filed 2/10/2005 are insufficient to overcome the rejection of claims 1, 3-6, 10, 12-13, 23-28 based upon the rejection as set forth in the last Office action because: although applicants present affidavits reflecting a positive public feedback, applicants have not provided a nexus between their claimed product and its purported commercial success. There is no evidence provided that the sales of applicant's product have out performed the sales of Brilliant Beginnings (no sales data for Brilliant Beginnings is presented or their advertisement budget) or that the claimed features as recited by the applicants are the reasons for the success (for example, applicants claim that the indicia of a brain link and school link are critical but no affidavit is provided to state that that is the reason that the product enjoys success with the user(s)). In other words the affidavits refer only to the system described in the above referenced application and not to the individual claims of the application. Thus, there is no showing that the objective evidence of nonobviousness is commensurate in scope with the claims. See MPEP § 716.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3-6, 10, 12-13, 24-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 1, there is no support in the original specification or drawings of a housing including at least one different item related to each area of brain development as required by claim 1. Although the specification makes it clear that one or more items may be included in the housing, there is no disclosure of a housing including at least one different item related to each area of brain development.

Regarding claim 23, the claim is drawn to an electronic version of applicants invention however it appears that there are method steps which seem to imply that items are provided that are not mere images, therefore it is not clear if the activity items are meant to be images or actual items. For example, the method step of "...providing said at least one activity item..." would seem to imply that an actual item is provided rather than an image, in which case such method steps are not disclosed in applicants specification as originally presented (i.e. the electronic version does not appear to be intended to be used with actual items).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3714

Claims 1, 3-6, 10, 12-13, 24-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, it is not clear how many activity items are being claimed. It appears that portions of the claim refer to at least one activity item (which may be interpreted as being singular), however other portions use a phrase of "...at least one different activity item" implying that there is more than one. Therefore it is not clear how many items are being claimed (i.e. at least one or a plurality).

Regarding claim 3, the claim is improperly dependent from canceled claim 2. Additionally there is no antecedent basis for "said predetermined concept".

Regarding claim 13, the claim is improperly dependent from claim 9.

Regarding claim 27, the claim is improperly dependent from claim 27.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-6, 10, 12-13, 16 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Brilliant! Beginnings™ Baby Brain Basics™ Birth to 12 months Parent Kit", here from referred to as Brilliant Beginnings in view of Werzberger

Art Unit: 3714

'298. Brilliant Beginnings discloses a system and method for facilitating early brain development containing most of the elements of the claims.

Regarding claim 1, the step of analyzing at least one activity item to determine how the item stimulates a predetermined stage of brain development is inherent in Brilliant Beginnings since it clearly provides at least one item for use which targets a predetermined stage of development (i.e. a photo book as provided for use with the kit is related to security since pictures of family members may be placed therein, to touch and sensory integration since it can clearly be touched, to vision and visual discrimination since it can be seen and to play since it can be played with and to sound since the material it is made of produces a sound when manipulated) and since the photo album is clearly meant to be utilized with some of the activities meant to foster a child brain development as intended by the kit of Brilliant Beginnings.

The step of determining how the predetermined stage of brain development promotes early development of future school skills in a child is also inherent in the kit of Brilliant Beginnings since the kit is directed to predetermined stages (as outlined in the booklet describing activities for the variety of stages) for which activities are described in order to develop associated skills for the particular stage. It should be noted that all of the skills being developed are considered to be future school skills since learning and success in school requires an emotionally healthy, physically fit, mentally sharp child with a healthy foundation and ability to learn, reason, and process the learned materials (all of which the kit of Brilliant Beginnings attempts to address through associated interactive activities).

Art Unit: 3714

Creating an activity card related to an activity item having areas identifying a brain link and school link are read onto the pages of activities described through the activity book of Brilliant Beginnings, especially pages 84 [specifically, the activity entitled faces is an activity that may be practiced with the item "Baby's Rhyming Photo Book" found in the housing], 88-90, 94-97, 103-108, 114-118). Regarding the specific indicia of a school link and brain link, it would have been obvious to one having ordinary skill in the art at the time of the claimed invention to include brain link and school link information since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack* 217 USPQ 401, (CAFC 1983) and *In re Ngai*, 367 F.3d 1336, 70 USPQ2d 1862. The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of educational information does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter (e.g. brain and school link indicia) and the substrate (e.g. activity cards) which is required for patentability.

The step of including at least one activity item in the housing where each activity item is related to each of the predetermined stages of brain development is shown as the photo album book described above.

Providing the activity card having caregiver directions to a caregiver is obvious in Brilliant Beginnings since the kit is meant to be provided to a caregiver.

Providing at least one activity item to the caregiver is also obvious with the kit since it is meant to be provided to a caregiver and interactively used with a child for learning. Additionally, it should be noted that an example of a step of modeling a selected activity for a child and prompting the child to perform the selected activity, as required by claims 1, is described on page 115 under the activity entitled "Let's Go Bowling". It should be pointed out that although the dolls described in the activity are not explicitly provided in the housing the system of Brilliant beginnings does provide the caregiver with a booklet of appropriate toys (e.g. "Toy Guide") including dolls and soft balls as required by the activity "Let's go bowling". Therefore it would have been obvious to provide the dolls and balls with the system of Brilliant Beginnings for the purpose of providing a complete system to the caregiver and child.

A predetermined concept of attention, as required by claims 3, is described on page 84 under the heading "Changeable Mobile" where there are a plurality of objects obtained and used to promote attention from a baby. Brilliant beginnings further discloses the importance of facial contact with a baby/child and directing the child attention to a defined space (page 84, activities entitled "Faces", "Funny Faces", and "Changeable Mobile", where the location of the mobile of the pictures is considered to be a defined space), as well as explicitly teaching a step of engagement being comprised of focusing a child's attention on an activity by establishing eye contact with the child (page 103, activity entitled "Pop the Balloon").



Instructing a caregiver to engage a child's attention by using visual stimulus, as required by claims 4 and 5, is described on page 84, activities entitled "Faces", "Funny Faces", "Changeable Mobile".

Regarding claim 6, the visual stimulus comprising at least one of varied facial expressions and use of an object is described on page 84, activities entitled "Faces" and "Funny Faces".

Regarding claim 10, engaging a child attention using auditory stimulus comprising varied voice intonations are described throughout the guide book including on pages 84, activity entitled "The Magic Breadth", page 90, activity entitled "Sing Songs" and "Read, Read, Read" and especially on page 96, activity entitled "Leg over Leg".

Regarding claims 12-13, the use of different manners of providing instructions is pointed to through out the guidebook. For example, on page 115 all of the activities require instructions and the step of demonstrating the activity as described would read upon the use of minimal verbal cues.

Regarding claim 16, the steps of determination of an area of child development to be improved including a brain link and school link are obvious over Brilliant Beginnings since the kit is intended to improve child development at a variety of predetermined stages, while a brain and school link are encompassed by the kit in that all of the skills being developed are considered to be future school skills since leaning and success in school requires an emotionally healthy, physically fit, mentally sharp child with a healthy foundation and ability to learn, reason, and process the learned

Art Unit: 3714

materials (all of which the kit of Brilliant Beginnings attempts to address through associated interactive activities) and require a brain link (i.e. being physically fit is linked to the brain associated with dexterity, balance, reasoning among others).

Establishing a brain link by analyzing at least one activity item to determine how the item stimulates a predetermined stage of brain development is inherent in Brilliant Beginnings since it clearly provides at least one item for use which targets a predetermined stage of development (i.e. a photo book as provided for use with the kit is related to security since pictures of family members may be placed therein, to touch and sensory integration since it can clearly be touched, to vision and visual discrimination since it can be seen and to play since it can be played with and to sound since the material it is made of produces a sound when manipulated) and since the photo album is clearly meant to be utilized with some of the activities meant to foster a child brain development as intended by the kit of Brilliant Beginnings.

Selecting activity cards from a housing is inherent with the use of the kit of Brilliant Beginnings since the kit is meant to be utilized by a caregiver selecting the associated cards (pages of the activity book of the kit).

A description of at least one importance of the selected activity is found in the benefits section related to each activity as described throughout the handbook, while similar activities that can also be accomplished to work on the same skill are shown (for example) on page 84 under "activities to nurture intellectual development". A description of at least one importance of the selected activity to brain building of future school skills is found throughout the handbook (for example, activity listed on page 117 entitled

Art Unit: 3714

"What's This?" is clearly teaching comprehension of words [a must in school]). Age information, variation of activities, and suggestions of what to say to a child are all found through out the handbook.

Regarding the specific indicia of the activity card which may be lacking from Brilliant Beginnings (e.g. a school link and brain link and background information), as required by claim 16, it would have been obvious to one having ordinary skill in the art at the time of the claimed invention to include brain link and school link information since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack* 217 USPQ 401, (CAFC 1983) and *In re Ngai*, 367 F.3d 1336, 70 USPQ2d 1862. The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of educational information does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter (e.g. brain and school link indicia) and the substrate (e.g. activity cards) which is required for patentability.

The housing including activity items related to a predetermined stage are shown as the photo album and CD where the two are clearly related to each area of brain development (i.e. a photo book is related to security since pictures of family members may be placed therein, to touch since it can clearly be touched, to eyes since it can be

Art Unit: 3714

seen, to play since it can be played with and to sound since the material it is made of produces a sound when manipulated).

Engaging a child's attention using at least one activity item and associated activity card to facilitate a play session is found at page 84 [specifically, the activity entitled faces is an activity that may be practiced with the item "Baby's Rhyming Photo Book" found in the housing].

Regarding claim 24, providing an activity card with alternate activities and activity variations is shown through the activities of the handbook of Brilliant Beginnings.

Regarding claim 25, instructing a caregiver to use an auditory stimulus comprising a sound generating object is described on page 95, activity entitled "Bells and Things" and page 103, activity entitled "Jingle the Bell".

Regarding claims 26 and 27, instructions for selecting an activity card are provided with the handbook of Brilliant Beginnings and encompassed by the instructions of Brilliant Beginnings.

Future school skills, as required by claim 28, are found throughout the handbook of Brilliant Beginnings, for example activity listed on page 117 entitled "What's This?" is clearly teaching language development (a must in school).

Although Brilliant beginnings discloses most of the elements of the claims the reference utilizes a guide book and not "activity cards" as claimed by claims 1-2. However Werzberger '298 teaches that it is known to provide activities listed on activity cards to educate and instruct (figure 9, element 416). Therefore it would have been obvious to one having ordinary skill in the art at the time of the claimed invention to print

the activities of Brilliant beginnings upon activity cards instead of in a guide book for the purpose of providing a easily manipulated activity instruction.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brilliant beginnings in view of Cohen '658. Brilliant beginnings teaches that it is known to provide an educational system which is related to a predetermined stage focusing on specific areas of brain development such as security, touch, eyes, play and sound, as stated above, however the reference fails to teach a system being electronic by utilizing databases to produce images of activities on the screen, as required by claim 23. However, Cohen discloses an electronic based educational system which teaches that it is known to provide a system simulating activities in an electronic form (see last line of the abstract and figures 5a-5i and 6a-6i) through the use of databases (col. 3, lines 46-50). Therefore it would have been obvious to provide a system of Brilliant beginnings as an electronic version for the purpose of introducing infants and young children to computers.

### ***Response to Arguments***

Applicant's arguments filed 2/10/2005 have been fully considered but they are not persuasive. Applicants first argue that there is sufficient support in the specification that a housing contains at least one different activity item related to each of the predetermined stages of brain development in paragraph 0025. The examiner maintains

Art Unit: 3714

his position and points out that the language relied upon by the applicants discusses a "particular concept" not a predetermined stage of brain development.

Applicants further argue that Brilliant Beginnings fails to teach a brain link and a school link as claimed. In response the examiner points out that the concept of a brain link and the concept of a school link is inherent in Brilliant Beginnings in that all activities of the kit are meant to foster a skill which will inherently be needed for school and a brain link is inherent with any learned/taught concept. However, the particular indicia of a brain link and school link is not patentable subject matter in this case (see above rejection and *In re Gulack* 217 USPQ 401, (CAFC 1983) and *In re Ngai*, 367 F.3d 1336, 70 USPQ2d 1862).

Applicants appear to further argue the concept of commercial success. In response the examiner points out that

An applicant who is asserting commercial success to support its contention of nonobviousness bears the burden of proof of establishing a nexus between the claimed invention and evidence of commercial success. The Federal Circuit has acknowledged that applicant bears the burden of establishing nexus, stating:

In the ex parte process of examining a patent application, however, the PTO lacks the means or resources to gather evidence which supports or refutes the applicant's assertion that the sale constitute commercial success. C.f. Ex parte Remark, 15 USPQ2d 1498, 1503 (Bd. Pat. App. & Int. 1990)(evidentiary routine of shifting burdens in civil proceedings inappropriate in ex parte prosecution proceedings because examiner has no available means for adducing evidence). Consequently, the PTO must rely upon the applicant to provide hard evidence of commercial success. *In re Huang* , 100 F.3d 135, 139-40, 40 USPQ2d 1685, 1689 (Fed. Cir. 1996). See also *In re GPAC*, 57 F.3d 1573, 1580, 35 USPQ2d 1116, 1121 (Fed. Cir. 1995); *In re Paulsen*, 30 F.3d 1475, 1482, 31 USPQ2d 1671, 1676 (Fed. Cir. 1994) (Evidence of commercial success of articles not covered by the claims subject to the 35 U.S.C. 103 rejection was not probative of nonobviousness). The term "nexus" designates a factually and legally sufficient connection between the evidence of commercial success and the claimed invention so that the evidence is of probative value in the determination of nonobviousness. *Demaco Corp. v. F. Von Langsdorff Licensing Ltd.*, 851 F.2d 1387, 7 USPQ2d 1222 (Fed. Cir. 1988).

Art Unit: 3714

In considering evidence of commercial success, care should be taken to determine that the commercial success alleged is directly derived from the invention claimed, in a marketplace where the consumer is free to choose on the basis of objective principles, and that such success is not the result of heavy promotion or advertising, shift in advertising, consumption by purchasers normally tied to applicant or assignee, or other business events extraneous to the merits of the claimed invention, etc. *In re Mageli*, 470 F.2d 1380, 176 USPQ 305 (CCPA 1973) (conclusory statements or opinions that increased sales were due to the merits of the invention are entitled to little weight); *In re Noznick*, 478 F.2d 1260, 178 USPQ 43 (CCPA 1973).

In *ex parte* proceedings before the Patent and Trademark Office, an applicant must show that the claimed features were responsible for the commercial success of an article if the evidence of nonobviousness is to be accorded substantial weight. See *In re Huang*, 100 F.3d 135, 140, 40 USPQ2d 1685, 1690 (Fed. Cir. 1996) (Inventor's opinion as to the purchaser's reason for buying the product is insufficient to demonstrate a nexus between the sales and the claimed invention.). Merely showing that there was commercial success of an article which embodied the invention is not sufficient. *Ex parte Remark*, 15 USPQ2d 1498, 1502-02 (Bd. Pat. App. & Inter. 1990). Compare *Demaco Corp. v. F. Von Langsdorff Licensing Ltd.*, 851 F.2d 1387, 7 USPQ2d 1222 (Fed. Cir. 1988) (In civil litigation, a patentee does not have to prove that the commercial success is not due to other factors. "A requirement for proof of the negative of all imaginable contributing factors would be unfairly burdensome, and contrary to the ordinary rules of evidence."). See also *Pentec, Inc. v. Graphic Controls Corp.*, 776 F.2d 309, 227 USPQ 766 (Fed. Cir. 1985) (commercial success may have been attributable to extensive advertising and position as a market leader before the introduction of the patented product); *In re Fielder*, 471 F.2d 690, 176 USPQ 300 (CCPA 1973) (success of invention could be due to recent changes in related technology or consumer demand; here success of claimed voting ballot could be due to the contemporary drive toward greater use of automated data processing techniques); *EWP Corp. v. Reliance Universal, Inc.*, 755 F.2d 898, 225 USPQ 20 (Fed. Cir. 1985) (evidence of licensing is a secondary consideration which must be carefully appraised as to its evidentiary value because licensing programs may succeed for reasons unrelated to the unobviousness of the product or process, e.g., license is mutually beneficial or less expensive than defending infringement suits); *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 USPQ 81 (Fed. Cir. 1986) (Evidence of commercial success supported a conclusion of nonobviousness of claims to an immunometric "sandwich" assay with monoclonal antibodies. Patentee's assays became a market leader with 25% of the market within a few years. Evidence of advertising did not show absence of a nexus between commercial success and the merits of the claimed invention because spending 25-35% of sales on marketing was not inordinate (mature companies spent 17-32% of sales in this market), and advertising served primarily to make industry aware of the product because this is not kind of merchandise that can be sold by advertising hyperbole.).

Art Unit: 3714

Although applicants present affidavits reflecting a positive public feedback, applicants have not provided a nexus between their claimed product and its purported commercial success. There is no evidence provided that the sales of applicant's product have outperformed the sales of Brilliant Beginnings (no sales data for Brilliant Beginnings is presented or their advertisement budget) or that the claimed features as recited by the applicants are the reasons for the success (for example, applicants claim that the indicia of a brain link and school link are critical but no affidavit is provided to state that that is the reason that the product enjoys success with the user(s)).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ds

  
JESSICA HARRISON  
PRIMARY EXAMINER